

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

United States of America,	:	Case No. 3:06-CR-196
	:	
Plaintiff,	:	
	:	
v.	:	
	:	
Michael E. Peppel,	:	
	:	
Defendant.	:	

ORDER

The Court held a status conference with counsel in this case on May 17, 2011 to discuss procedures for resolving objections to the Pre-Sentence Report and final sentencing. After discussing this matter with counsel, the Court finds that the most efficient method is to conduct an evidentiary hearing on the disputed issues of loss amount, number of victims, and the sophisticated means enhancement.

With regard to the hearing, the Government shall disclose its experts and a summary of expected testimony by May 20, 2011. Defendant shall disclose his experts and a testimony summary by June 17, 2011. The parties shall submit prehearing memoranda by June 17, limited to five pages, to **briefly** cite and summarize applicable law or authorities bearing on these three issues. The Court will conduct the evidentiary hearing beginning on Tuesday, June 21 at 10 a.m. and adjourning at 4:30 p.m. Contrary to the

discussion at the conference, the Court is not available on Wednesday, June 22, due to a prior scheduling commitment. The hearing will resume on Thursday, June 23 at 9 a.m., and if necessary will continue on Friday, June 24 at 9 a.m. The Court will thereafter issue a written order on these issues, and will set a schedule for submission of final sentencing memoranda and a sentencing date.

The Court has initially reviewed the PSR and the probation officer's recommended method of calculating actual loss. (That method is based on a narrow timeframe, using the market price for MCSi stock on the trading days before and after the announcement of the SEC investigation.) Application Note 2(C) to Guidelines Section 2B1.1 states that the Court "need only make a **reasonable estimate** of the loss." The Court orders the parties to focus their hearing presentations on why the PSR's recommended method is not a reasonable estimate of the loss in this case. The parties are cautioned that they must present any witnesses or other evidence concerning the amount of loss, number of victims, and the sophisticated means enhancement during the June hearing. Mitigation evidence and character witnesses may be presented at the final sentencing hearing.

SO ORDERED.

DATED: May 18, 2011

s/Sandra S. Beckwith
Sandra S. Beckwith
Senior United States District Judge